

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

SKIBOKY STORA,

Plaintiff,

- against -

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

-----X

ROSLYNN R. MAUSKOPF, United States District Judge.

MEMORANDUM AND ORDER
16-CV-6503 (RRM)

Plaintiff Skiboky Stora (“Stora”), *pro se*, brings this action against the defendant, the Commissioner of the Social Security Administration (the “Commissioner”). Stora seeks review of the determination of an administrative law judge (“ALJ”) that he is entitled to Supplemental Security Income benefits, pursuant to 42 U.S.C. § 405(g). The Commissioner has moved for judgment on the pleadings pursuant to Federal Rule of Civil Procedure (“Rule”) 12(c). Stora has since filed a motion for summary judgment and a motion for default judgment.¹ For the reasons set forth below, the Commissioner’s motion is granted, and Stora’s motions are denied.

BACKGROUND

Stora filed an application for Supplemental Security Income on September 9, 2013, claiming that he was disabled due to post-traumatic stress disorder and a gunshot wound in his back. After his claim was denied on February 11, 2014, he requested an administrative hearing on March 18, 2014. A hearing was held before Administrative Law Judge (“ALJ”) David Tobias on March 17, 2016, and on July 27, 2016, the ALJ issued a fully favorable decision finding that Stora was disabled as of the date of his application.

¹ Stora also filed a response to the Commissioner’s motion in which he argued that he was never served with any motion papers because his first name was misspelled as “Skiborsky.”

DISCUSSION

Federal courts lack jurisdiction to review Social Security administrative decisions that are fully favorable to the plaintiff. *Heller v. Comm’r of Soc. Sec.*, 328 F. App’x 74, 75 (2d Cir. 2009); *Wheeler v. Heckler*, 719 F.2d 595, 600 (2d Cir. 1983); *Jones v. Califano*, 576 F.2d 12, 18 (2d Cir. 1978); *Stewart v. Astrue*, No. 10-CV-3922 (SJF), 2012 WL 32615, at *2 (E.D.N.Y. Jan. 4, 2012). Because the Commissioner found Stora to be disabled as of his application date of September 16, 2013, the decision was fully favorable.

In Stora’s complaint, he writes that his disability began on August 18, 2005. Out of an abundance of caution, the Court interprets this to mean the Commissioner’s decision was not fully favorable because he should have been entitled to benefits going back until that date. However, by statute, Social Security benefits are not payable for any period prior to the month after the application is filed. 20 C.F.R. § 416.335. Therefore, where benefits are paid as of that date, the claimant has received a fully favorable decision. *Thomas v. Comm’r of Soc. Sec.*, No. 16-CV-09247 (LTS) (KHP), 2017 WL 3475435, at *2 (S.D.N.Y. June 22, 2017), *report and recommendation adopted*, 2017 WL 3475064 (S.D.N.Y. Aug. 11, 2017); *Tuff v. Astrue*, No. 12-CV-428 (GTS), 2012 WL 5499450, at *3 (N.D.N.Y. Nov. 13, 2012).

Here, Stora was awarded benefits extending back to his application date. This determination was fully favorable to him, and as such, this Court lacks jurisdiction to hear this claim. Therefore, the Commissioner’s motion is granted, and Stora’s motions for summary judgment and for default judgment are denied.

CONCLUSION

For the reasons set forth above, the defendant's motion (Doc. No. 18) is granted, and Stora's motions (Doc. Nos. 24, 28) are denied.

The Clerk of Court is respectfully requested to enter judgment accordingly, and close the case. The Clerk of Court is further directed to mail a copy of this Memorandum and Order and the accompanying judgment to the *pro se* plaintiff, and note the mailing on the docket.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore *in forma pauperis* status is denied for purposes of an appeal. *Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

SO ORDERED.

Roslynn R. Mauskopf

Dated: Brooklyn, New York
September 26, 2018

ROSLYNN R. MAUSKOPF
United States District Judge